

**Upper Pittsgrove Township
Land Use Board Minutes
July 17, 2014**

TO: Township Committee
Land Use Board Members

Linda S. Buzby, Twp. Clerk
L. Andrew Hoglen, Zoning Officer

A regular meeting of the Upper Pittsgrove Township Land Use Board was held in the Township Hall on the above date. The meeting was called to order at 7:30 P.M. by Board Chairman reading the public announcement stating that adequate notice had been given provided under the "Open Public Meetings Act" and a flag salute.

Members present were: John Coombs, Robert Duus, Thomas Buzby, Ralph Sickler, Edward Meschi, Dale Wilson, Eric Kern, Jon Hitchner, William Gantz, and Linda Buzby.

Also present was: Sarah Walker, Recorder, George G. Rosenberger, Board Solicitor, J. Michael Fralinger, Board Engineer, Sarah Birdsall, Board Planner, William Ziegler, Esq., Bryan Hall, Michael Holloway, Shawn Gallagher, Terrance Coombs, Ross Levitsky, Esquire. Arret and Emery Dobson, James Clancy, David Zeck, Jr., David Zeck and Township visitors.

Business to come before the Board:

1. Minutes from June 19, 2014
2. GMH Ventures, LLC – Use Variance
3. Dobson Turf Management, LLC – Major Site Plan
4. David Zeck – Minor Subdivision

1. Minutes –

A motion to approve the minutes from the June 19, 2014 meeting was made by Robert Duus. This motion was seconded by Ralph Sickler and adopted unanimously.

2. GMH Ventures, LLC – Block 5 Lot 38

The Board Chairman opened the hearing for GMH Ventures, LLC. Board members Edward Meschi, Robert Duus and Linda Buzby recused themselves from participating in this application. This application was continued from the June 19, 2014 meeting. The applicants' attorney, William Ziegler, gave a brief synopsis of the facts

placed on the record from the previous meeting, held on June 19, 2014. He stated that there would be no changes to the facility, the proposed use would generate tax revenue, would employ 70-80 employees and this particular use could be considered inherently beneficial. Maggie Vaughn, from the Salem County Department of Health spoke to the Board regarding the services her office can provide. Ms. Vaughn stated that there were no in-patient treatment facilities in Salem County, that addiction was considered a disease knowing no socioeconomic barriers. She described how addiction can start, its effects on both the patient and the family. The patients would not be attached to the judicial system. Mr. Holloway explained protocols utilized in GMH Ventures Florida facility. License requirements are reviewed yearly. He reminded the Board that this was not a lockdown facility and patients could check out at any time which would be considered "AMA" against medical advice. All staff is trained to handle this type of incident. If they felt the patient was a threat to the community, employees or themselves, the police would be notified immediately. Mr. Ziegler compared the proposed behavioral health treatment facility to a cancer treatment center. He stated that argumentatively they were the same. Board member Thomas Buzby questioned the number of beds and staffing. Mr. Zeigler responded that the 64 beds and 70-80 staff would be the same as had been there previously. Board member Ralph Sickler stated that he felt that there was a need for this type of facility however, since Upper Pittsgrove did not have a local police force, and the State Police were required to cover a large area on limited manpower, he felt security was a big concern. Thomas Buzby made a motion that this proposed use was not the equivalent to the previous use as a nursing home. Dale Wilson seconded this motion which was adopted unanimously.

The Board Chairman continued to the Use Variance portion of the application. Mr. Zeigler stated that it was already determined that the proposed use was to be considered inherently beneficial. The site was particularly suited to for the proposed use since they were not changing the facility. Terrence Combs, the Applicant's Planner started with a positive criteria overview demonstrating special reasons as follows: promotes zoning purposes as referenced in 40:55D-2 stating that this use has already been found a value to the community with regards to public health, safety, morals and general health. That it satisfies the inherently beneficial position since it will not pose a substantial detriment to the public good. Mr. Zeigler questioned Mr. Combs about any adverse impact on the zone or zone ordinance. Mr. Combs responded that the use was located on an arterial road, there would be no traffic impact, no additional noise, odor, and all waste would be the same as the previous use. The property was buffered by natural vegetation. He stated that this was consistent with the 2006 Master Plan which was re-examined in 2010 citing the Mission Statement. The existing development will not encroach on farmland. It is his opinion that this proposed use is consistent with the Master Plan, which restricts commercial development, because this is an existing structure. Board Solicitor asked Mr. Combs to move along. Mr. Combs stated that it was his experience as a planner that the fear the residents had from this type of facility was not reasonable. He reiterated that this type of use was beneficial to the community which was self-evident since the courts have upheld this. Board Planner, Sarah Birdsall, stated that although it may not pose a substantial damage to the public good the Board could consider the impact on the surrounding neighborhood.

The Board Chairman opened the hearing to the public for comment. Several members of the Vasallo family voiced their concerns over no police protection, harm to the character of the neighborhood, that they did not feel the use would fit the need because the need was not for a private facility. Carol Parks was concerned that residents of the facility would sign themselves out and pose a danger to her family. Her daughter, Julie Knight concurred. Michael Hudek's biggest fear was they would take tax payers money to operate. Michael Holloway addressed these concerns by stating that a privately-run facility cannot receive public funds. He suggested that residents look at the news, not many people break-out of these facilities and cause problems. Leah Vasallo read from the Upper Pittsgrove Township newsletter. Her concern was that GMH Ventures would convert the use to take court ordered patients. She also stated that no Certificate of Need had been filed with the application. She cited some court cases that lead her to believe that this use was not necessarily considered inherently beneficial. Kaaren Caltabiano stated that she felt that the statute driven notice distance was not adequate. Her other fear was that properties would be devalued as a result of the behavioral health treatment center being located in their area. A few other residents just restated that they did not want this in their "backyard". There were no more members of the public willing to speak either for or against this application therefore the Board Chairman closed the hearing to the public for comment.

Mr. Ziegler summed up the testimony for the Use Variance to operate a behavioral health treatment center in the existing Mater Dei nursing home structure. He said the public stated irrational concerns based on emotion not fact. The use would employ approximately 80 people, it was consistent with the previous use, and reminded the Board that they could require Site Plan which may include a security plan. Board member Thomas Buzby asked the Board Solicitor if they could require a security plan. Mr. Rosenberger responded yes. He then summed up the Board's job when deliberating the facts before them for the use. He felt that there had been no negative facts placed on the record, with regards to the decrease in property values, theft or increase in crime, only opposition to the use. The applicant had presented facts. He stated that there was no question the proposed use would be considered inherently beneficial, and the Board must look at the facts. The Board Chairman concurred stating that he felt this was a "Not in my backyard" feeling. While he understood the resident's concerns he felt this would be an appropriate use of the existing building and it would create jobs. He felt that lack of a police force and safety for the area was still a big concern. Board members Thomas Buzby and Dale Wilson voiced apprehension with the use being inherently beneficial and the security issues. The Board Chairman felt that the Board was charged with helping people who need help and this use would address this. Board member Eric Kern stated that the lack of a police force was a very big negative to him. This was a small township. Board member William Gantz questioned whether they could change the use to a non-profit. The Board Solicitor stated since the Use Variance approval would be to the specific use placed on the record, they would have to come back before the Board to change it. Mr. Kern questioned Shaun Gallagher from GMH Ventures as to what concerns did residents have when they were obtaining approvals in Florida. Mr. Gallagher stated that they were the same as the residents were voicing tonight. Thomas Buzby made a motion to the Use Variance request to locate a sixty-four bed in-patient behavioral health treatment facility in the existing nursing home building and to require a site plan

with a security plan. Ralph Sickler seconded that motion which was denied upon a call of the roll. Ayes: Hitchner, Buzby, Coombs, Gantz Nays: Sickler, Wilson, Kern.

3. Dobson Turf Management – Block 5 Lot 46

The Board Chairman recused himself from acting on this application. Board Vice-Chairman Robert Duus conducted the hearing. This application was for Preliminary and Final Site Plan approval with variances. The applicant was represented by Ross Levitsky, Esquire. Mr. Levitsky explained that the applicant, Dobson Turf Management had received Use Variance approval at the May 15, 2014 meeting. The Board Engineer commented on his completeness review letter dated July 16, 2014. He stated that the applicant was requesting waivers for the following items: Checklist “A” Item #10 and Checklist “I” Item #9 for Letter of Interpretation from DEP, Checklist “C” item #8 plan showing loading and unloading areas, Item #18 calculation of the wetlands and uplands area to determine that 50% of the site is highlands, Item #22 the plan must show cross sections and profiles of the existing streets, Item C Traffic Impact Study, Item “E” Environmental Impact Study, Checklist Schedule “E – Environmental Impact Statement, Checklist Schedule “G” – General Development Plan and finally Item F – Environmental Impact Study. He had no objection to waiving these items with regards to completeness. Thomas Buzby made a motion to grant the requested waivers and to deem the application complete. This motion was seconded by Ralph Sickler and adopted unanimously.

Arret Dobson gave testimony as to the site layout. He was proposing a 6,000 square foot pole building with a landscape supply yard. They plan to sell lawnmowers, snowplows, blowers and golf carts. Other improvements to the property would be material bunks, a scale and a 2nd building in the rear for overflow storage. The proposed pole building would contain 2,000 square foot of showroom/office/counter area. The remaining square footage would be utilized as a service area. Mr. Dobson stated that they were proposing parking along the front for customers. There would be employee parking in the rear. The area behind the building would also be used for loading and unloading. He stated deliveries of mowers, plows, golf carts, etc. would be made by tractor trailer which had adequate room to turn around behind the building. Bulk deliveries would be made by tri-axle dump trucks directly into the bins. The tractor trailers would park along the proposed scale to be unloaded by forklift. Mr. Dobson was proposing hours of operation to be from 7AM – 5PM 6 days a week. He stated that during snow events the hours might be extended. Mr. Levitsky explained that they were seeking a waiver to allow 9 foot by 18 foot parking spaces instead of 10 foot by 20 foot as required by ordinance. The applicant’s engineer, James Clancy addressed the request stating that the standard now was for 9 foot by 18 foot. Mr. Dobson stated that he anticipated only 5-10 customers at any given time and did not think the parking space size would be a problem. The applicant was also requesting a waiver to reduce the number of spaces required. Mr. Fralinger stated that he had no objection to the reduced number of spaces. He felt that circulation was adequate. Ms. Birdsall had concerns with the circulation and how trucks unloading, trucks loading, trucks being weighed, and then stopping to pay would work in the area depicted on the plan. After a brief discussion Thomas Buzby made a motion to require 10 foot by 20 foot spaces. This motion was seconded by Ralph Sickler and adopted unanimously. The plan showed one handicap space, however the applicant agreed to provide the required second space. Mr. Levitsky stated that the applicant was

requesting a variance to permit only 27 spaces, including the two handicapped, instead of the 30 spaces required by the Ordinance. Items 6-21 on Mr. Fralinger's technical review dated July 16, 2014 the applicant agreed to comply with. Mr. Levitsky continued with the variance request for additional signage. The applicant was proposing signs on the building, 5 – 2 foot by 6 foot signs with would state the brands being sold and one identifying the company on the gable-end of the building. In addition he was proposing 8 – 3 foot by 12 foot banners to be located on the fence along the front of the property. The permitted free-standing sign would be a 32 square feet LED, non-blinking sign that could change as needed for sales. The sign board would not change colors. They were proposing no curbing in order to utilize sheet flow for drainage. Mr. Dobson stated that they would be place mowers, golf carts along the fence in a display area. None was depicted on the plan and Mr. Dobson withdrew this item. There would be no outside display of goods other that under the porch of the proposed building as depicted in the architectural renderings submitted.

After a five minute break Mr. Clancy and Ms. Birdsall held a brief discussion on the proposed fencing. Along the two property lines there was no proposed landscaping, only the fence. Mr. Clancy stated that the applicant was taking the 8 fence banners off the table and were no longer part of their sign variance request. Thomas Buzby commented that there seemed to be a lot of signs. Discussion flowed between the Board, its professionals and the applicant's professionals with regards to the signs, fencing and buffering. Thomas Buzby questioned whether the building signs would be lit. Mr. Clancy responded no. Mr. Dobson stated that they needed the signs because customer looked to see what brands were being sold. Mr. Rosenberger commented about needing to see a designated loading area. Mr. Levitsky responded that Mr. Fralinger did not provide testimony against the applicant's plans. There was no designated area because loading/unloading would be done in several locations to the rear of the building. Mr. Clancy explained that the scale would not be used for tractor trailers only smaller vehicles such as tri-axle dump trucks. The Vice-Chairman felt that signs depicting the flow of traffic might be warranted to better show the circulation pattern, or maybe a circulation plan should be submitted. The Board Solicitor recommended that the Board continue the hearing until the next meeting to give the applicant time to prepare and come back with a revised plan. Mr. Levitsky stated that the only issue was the circulation on the property and they had provided testimony stating that plan did work as prepared and Mr. Fralinger's review supported the plan. Mr. Levitsky requested that the Board grant the applicant Preliminary approval conditioned upon them providing a circulation plan as well as a loading plan.

The Vice-Chairman opened the hearing to the public for comment. Resident Sherry McGroarty stated that she would much rather have a vegetative buffer rather than the proposed fence. Resident John Coombs agreed with Ms. McGroarty that the fence should be replaced with landscaping down both sides of the property for at least 435 feet. There being no additional comment from the public, the Vice-Chairman closed the hearing to the public for comment.

Mr. Rosenberger reviewed the approvals that were being requested for the Board. Dobson Turf Management was seeking variances to reduce the required number of parking spaces from 30 required, 27 provided, lot frontage 300 feet required 250 feet

provided, lot coverage for other is 15% and the applicant was requesting 20%. However, the total coverage permitted is 35% and the applicant's proposed total would only be 23%. Additional variance requests concerned additional signage beyond the 32 square foot permitted by ordinance consisting of building mounted signs; 5 - 2 foot x 6 foot signs to be located between the windows along the front of the building and 1 to be located at the gable-end of the building, the variance request for the fence was no longer viable since a vegetative buffer was being provided instead. A waiver being requested from providing curbing and instead utilize parking stops so as not to impede sheet flow. There would be no outside display area and the applicant agreed to comply with comments #6-#21 in the Board Engineer's letter dated July 16, 2014. Dale Wilson made a motion to grant Preliminary Site Plan approval along with the requested waivers and variances and conditioned upon the applicant submitting a circulation plan, loading/unloading plan and a landscaping plan. This motion was seconded by Ralph Sickler and adopted unanimously.

3. David Zeck – Block 38 Lot 13

The Board Chairman opened the hearing for David Zeck. This application was for Minor Subdivision approval along with bulk variances for front and rear setbacks. Mr. Zeck explained the application to the Board. This proposed Minor Subdivision was for the creation of one new lot containing 6 acres with 1,104.58 feet of frontage which would be designated Lot 13.01. The remainder of Lot 13 would contain 78.76 acres and 1,542.28 feet of frontage. Variances were being requested for front yard setback on proposed Lot 13.01 where 50 feet is required and 43.2 provided and rear yard setback, required 25 feet provided 11.2 feet. The variances being requested for Lot 13 are from front yard setback, required 50 feet provided 36 feet. Currently there was a structure located within the side yard setback on Lot 13. Mr. Zeck stated that a portion of that structure would be demolished within ninety days of adoption of the Resolution. When that portion is removed the structure would provide a 27.5 foot side yard setback where 50 feet is required. A variance was also requested for depth on Lot 13.01, required 300 feet, provided 231.88 feet. The owners of Lot 13 have submitted an application for Farmland Preservation and there would be no new development on Lot 13 or 13.01 as a result of this subdivision. Board Engineer, Michael Fralinger commented on his completeness review dated July 16, 2014. Waivers requested were Checklist "A" Item #10 providing a Letter of Interpretation from DEP, Checklist "D" Item C, 8-showing all structures and wooded areas within and 200 feet from the subject property, 14-the location of all wetland and wetland transition areas, 16-contours at 2 foot intervals for slopes averaging 5% or greater, etc. and 17-a grading plan. Items #7 and #9 from Checklist "I" were duplicate requirements from other checklists. Mr. Fralinger had no objection to granting the requested waivers since both lots are developed and there is no construction being proposed. Robert Duus made a motion to grant the waivers and to deem the application complete. This motion was seconded by Thomas Buzby and adopted unanimously. Mr. Fralinger continued with comments for the technical review. Mr. Zeck agreed to comply with all comments contained in Mr. Fralinger's letter. The Board Chairman opened the hearing to the public for comment. There being no one present speaking either for or against this application, the public portion was closed by the Chairman. Thomas Buzby made a motion to grant Minor Subdivision approval for the creation of one 6 acre lot along with the requested variances. This motion was seconded by Robert Duus and adopted unanimously.

There being no further comment and business before the Board, Robert Duus made a motion to adjourn the meeting. This motion was seconded by Thomas Buzby and adopted unanimously.

Respectfully submitted,

Linda Buzby, Secretary
Upper Pittsgrove Township
Land Use Board